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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,173	08/18/2006	Marco Ghini	2545-0512	4065
7590 Harbin King & Klima 500 Ninth Street, SE Washington, DC 20003				
EXAMINER				
DEMEREE, CHRISTOPHER R				
ART UNIT		PAPER NUMBER		
3782				
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06/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/590,173

Applicant(s)

GHINI ET AL.

Examiner

CHRISTOPHER DEMEREE

Art Unit

3782

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 5-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Focke et al. (US 6343691 B1; hereinafter Focke).

Regarding claims 1, 6-8, 10, 11, 14-17 and 20, Focke teaches a hinge lid pack for cigarettes and the blank for making obtainable from a flat die cut blank (see Fig. 3) presenting a first panel (14) and a second panel (15) coinciding respectively with the front and the back of the packet (see Fig. 1), pairs of lateral panels (24 and 25) hingedly attached respectively to the first and second panels and establishing the flanks of the packet, and end panels (16 and 22) establishing the top end face (see Fig. 2) and the bottom end face (see Fig. 6) of the packet, characterized in that the flat die cut blank is bent double along at least one fold line (43) to create a first part (any part of the blank below fold 43) and a second part (any part of the blank below fold 43) flattened one against the other in such a manner that the folded blank presents a collapsed configuration initially; in that each of the lateral panels associated with one of the two parts (associated with 25) of the blank presents a preferential fold line (34) delimiting a first inner lateral portion (36) and a second outer lateral portion, positioned such that the second outer portions can be bent along the preferential fold line and at least one

portion (outer lateral portion of 25) of one part offered to the corresponding lateral panel of the other part (24) so that when the folded blank is erected to form the packet, the corresponding lateral panel will overlap and cover the preferential fold line (25 and 24 overlap; see Fig. 6).

Focke also teaches a hinge lid pack for cigarettes and the blank for making wherein the preferential fold line coincides with an axis of symmetry of the lateral panel (examiner considers fold 34 to provide a vertical line of symmetry between panels 25 and 36).

Regarding claims 2 and 3, Focke teaches a hinge lid pack for cigarettes and the blank for making wherein the second outer portion of a lateral panel presented by one part of the blank, offered to the panel that will ultimately overlap the preferential fold line, is fastened permanently to the opposite part of the blank (Col 2 lines 52-58).

Regarding claim 5, Focke teaches a hinge lid pack for cigarettes and the blank for making wherein the second outer portions of each lateral portion are substantially flattened against the respective first inner portions when the blank is in the initially collapsed configuration. Examiner notes that portions of the outer panel 25 are capable of being folded flat against panel 36 via fold line 34.

Regarding claim 9, Focke teaches a hinge lid pack for cigarettes and the blank for making wherein the fold line (43) is applied to an end panel (22) hinged on opposite sides of the selfsame fold line to the first panel (14; below fold 43) and the second panel (15; above fold 43).

Regarding claims 12, 13, 18 and 19, Focke teaches a hinge lid pack for cigarettes and the blank for making comprising a plurality of first crease lines (35, 38 and 39) functioning as hinges between the lateral panels (24 and 36) and the first and second panels (14 and 15).

Response to Arguments

3. Applicant's arguments filed 3/16/2009 have been fully considered but they are not persuasive. Applicant argues that Focke does not disclose lateral panels that overlap and cover the preferential fold line. Examiner notes that Focke does indeed teach a lateral panel that overlaps preferential fold line 34. Examiner notes that the claims do not define whether said lateral panels overlap and cover an inner or outer surface of said fold line.

Applicant argues that Focke fails to disclose that the preferential fold line coincides with an axis of symmetry of the lateral panel. Examiner notes that the claims merely define "an axis of symmetry", therefore Examiner considers preferential fold line 34 to "coincide" with a vertical axis of symmetry of the lateral panels. Examiner notes that the claims do not require that said fold line splits the lateral panels into two equal portions.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER DEMEREE whose telephone number is (571)270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Demeree/
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782